



# City Administrator's Small Business Summit

## San Francisco Labor Laws



Office of Labor Standards Enforcement

# Presentation Topics

## *Citywide Labor Laws*

- Minimum Wage
- Paid Sick Leave
- Health Care Security
- Paid Parental Leave
- Family Friendly Workplace
- Lactation in the Workplace

## *Citywide + City Contracting Labor Laws*

- Fair Chance
- Salary History

## *Contracting Labor Laws*

- Prevailing Wage
- Project Labor Agreement
- Minimum Compensation
- Health Care Accountability





# Citywide Labor Laws



Office of Labor Standards Enforcement



# Minimum Wage Ordinance (MWO)

Linshao Chin  
Compliance Officer



Office of Labor Standards Enforcement

# San Francisco Minimum Wage Ordinance



**City & County of San Francisco**  
**San Francisco Minimum Wage**

Post Where Employees Can Read Easily. Failure to post this notice may result in penalties.

<b>\$16.32</b> <small>per hour por hora 每小時 bawat oras</small>	<small>Rate Effective - La tasa entrará en vigor el - 生效日期 - Simula sa</small> <b>July 1, 2021</b>
---	---

**OFFICIAL NOTICE**

- The minimum wage is currently **\$16.32** per hour
- On **July 1** of every year, the minimum wage is adjusted based on the annual increase in the Consumer Price Index.



**OLSE HOTLINE for  
Minimum Wage Questions**

**(415) 554-6292**

**[mwo@sfgov.org](mailto:mwo@sfgov.org)**

**[www.sfgov.org/olse/mwo](http://www.sfgov.org/olse/mwo)**





# Paid Sick Leave Ordinance (PSLO)

Linshao Chin  
Compliance Officer



Office of Labor Standards Enforcement

# Covered Employees

- Effective 7/1/20, the Minimum Compensation Ordinance (MCO) integrated the PSLO into the PTO requirements. For more information, please watch the on-demand MCO webinars on the MCO webpage, read the MCO Rules and Regulations, or contact the MCO unit at [mco@sfgov.org](mailto:mco@sfgov.org).
- Employees who perform work in San Francisco (56 or more hours per year), including on a part time or temporary basis, accrue paid sick leave for those hours worked in the city, regardless of where their employer is located.



# Use of Paid Sick Leave

- An employee may use paid sick leave when he or she is ill or injured or for the purpose of the employee's receiving medical care, treatment, or diagnosis.
- Sick leave can also be used to aid or care for the following persons – child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state or local law, or designated person.
- Sick leave can be used by an employee who is a victim of domestic violence, sexual assault or stalking.



# Accrual and Use of Paid Sick Leave

- Accrue 1 hour of PSL for every 30 hours worked
- Accrue PSL starting on day 1
- Use PSL hours after 90 days
- Caps on accrual:
  - 40 hours for employers with <10 employees
  - 72 hours for all other employers



# Accrual and Use of Paid Sick Leave

- Caps are not annual; accrued PSL hours carry over from year to year
- Employers must notify employees of PSL accrued each pay period
- Employees can use any PSL accrued



# Paid Sick Leave Questions

(415) 554-6271

[psl@sfgov.org](mailto:psl@sfgov.org)

[www.sfgov.org/olse/pslo](http://www.sfgov.org/olse/pslo)





# COVID-Related Employment Protections Ordinance (CEPO)

Linshao Chin  
Compliance Officer



Office of Labor Standards Enforcement

# Background

- The COVID-Related Employment Protections Ordinance took effect on September 11, 2020 as an emergency ordinance.
- The Board of Supervisors passed an extension (to January 9, 2020) at its November 10, 2020 meeting.
- The Board of Supervisors passed it as a regular Ordinance on January 26, 2021, with a 2-year term. It expires on March 6, 2023.



# Who is Covered?

- Employees, including part-time or temporary employees
- An employee or independent contractor that has performed at least 16 hours of work for the employer



# Worker Protections

- No adverse action against a Worker who is absent from or unable to work, or who requests time off work, because the Worker tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure
  - Does not matter if the Worker is eligible to take paid or unpaid leave under any employer benefit program or any other local, state, or federal protection



# Applicant Protections

- Employers may not make or rescind an offer to employ or contract with an applicant based on whether an applicant tested positive for COVID-19 or is isolating or quarantining, or has previously isolated or quarantined, due to COVID-19 symptoms or exposure.
- If an applicant is unable to start work because the applicant tested positive for COVID-19 or is isolating or quarantining due to COVID-19 symptoms or exposure, the employer shall reasonably accommodate the applicant by scheduling a later start date where reasonably feasible.



# For more information about COVID-Related Employee Protections Ordinance (CEPO):

Visit [www.sfgov.org/olse](http://www.sfgov.org/olse)  
Ordinance, FAQs, Poster

Call the multilingual hotline at **(415) 554-6077**

Email [cepo@sfgov.org](mailto:cepo@sfgov.org)





# Health Care Security Ordinance (HCSO)

Maura Prendiville  
Supervising Compliance Officer



Office of Labor Standards Enforcement

# HCSO History and Overview

- The HCSO requires covered employers to make health care expenditures (spend money) on behalf of covered employees for health care services.
- Has been in effect since 2008.
- ALL for-profit businesses are covered by the HCSO if they have 20 or more persons working for them worldwide (not only City contractors!!)

**Minimum size threshold is based on total number of employees in ALL locations worldwide**



# Covered Employees

- Employed by the company for at least 90 calendar days; and
- Work at least 8 hours per week in San Francisco

That's it!!

- Insurance status *does not matter*
- Eligibility for company benefits *does not matter*
- Full-time/part-time/unionized status *does not matter*
- Temporary/seasonal status *does not matter*
- Very, very limited exemptions



# Exemption: HCAO

- If your business is a City Contractor covered by the Health Care Accountability Ordinance (HCAO):
  - You may have some employees covered by HCAO and others covered by HCSO.
  - An employer may be covered by both health care laws, but individual employees can only be covered by one of the two
  - HCAO discussed in “City Contractor Laws” portion of presentation



# Employer Obligations Under the HCSO

- 1) Post official OLSE notices in all workplaces
  - Download notice from the OLSE website
- 2) Report health care expenditures to OLSE annually
  - Annual Reporting Form (ARF) open in April.
- 3) Maintain employment records
  - Employment Records demonstrating contributions made each quarter
- 4) Satisfy **Employer Spending Requirement**



# Employer Spending Requirement

Employer Size	2021 Expenditure Rate	2022 Expenditure Rate
<b>Large (100+ workers)</b>	<b>\$3.18 per hour</b> \$546.96/mo for full time \$1,640.88 per quarter	<b>\$3.30 per hour</b> \$567.60/mo for full time \$1,702.80 per quarter
<b>Medium (20-99 workers)</b>	<b>\$2.12 per hour</b> \$364.64/mo for full time \$1,093.92 per quarter	<b>\$2.20 per hour</b> \$378.40/mo for full time \$1,135.20 per quarter

***\*Health Care Expenditure Rates Change Annually on January 1\****



# Employer Spending Requirement

- Payable Hours x HCE Rate = Amount To Spend Quarterly
- Payable hours includes hours worked and any hours a person is entitled to be paid wages, like sick leave, vacation, PTO
  - Payable hours cap: 172 hours/month
- HCEs must be made 30 days after the end of the preceding quarter.
  - For Q3 2021 (Jul., Aug., Sept.) the deadline is Oct. 30, 2021
- **Quarterly Deadlines:** Q1: Apr. 30, Q2: July 30, Q3: Oct. 30, Q4: Jan. 30.



# How to Satisfy the Employer Spending Requirement?

- Provide health insurance:
  - Payments for insurance premiums, including medical, dental, and/or vision insurance for covered employees and/or their spouses, partners, children, or other dependents
- Contribute to SF City Option
  - Medical Reimbursement Account (MRA)
- Contribute to a Health Savings Account, Medical Savings Account, or other irrevocable reimbursement account
- Combination of these options until the full spending requirement is satisfied



# Common Compliance Issues

- Failing to make any health care expenditures for some or all covered employees
- Not meeting the health care expenditure owed to a Covered Employee (e.g. spending too little for health insurance)
- Not providing part time employees who work 8+ hours/week with a health care expenditure (e.g. part time employee does not qualify for employer's health insurance, no alternative health benefit provided to employee)
- Failing to make health care expenditures for employees with other coverage



# HCSO Resources

- **Sign up for HCSO updates**

<https://sfgov.org/olse/email-sign-employers-20-or-more-employees>

- **OLSE/HCSO** <https://sfgov.org/olse/health-care-security-ordinance-hcso>

- Administrative Guidance/FAQs
- OLSE Official Notices
- Annual Reporting Form

- **Attend HCSO/SF City Option Webinar (offered monthly)**
- **Email us: [HCSO@sfgov.org](mailto:HCSO@sfgov.org)**
- **HCSO Hotline: (415) 554-7892 (English, Spanish, Chinese)**





# Paid Parental Leave Ordinance

Bernice Casey  
Compliance Officer



Office of Labor Standards Enforcement

# What is the Paid Parental Leave Ordinance?

- Passed unanimously by Board of Supervisors on April 21, 2016 and implemented beginning 2017.
- First of its kind in the United States
- Requires employers to supplement an employee's California Paid Family Leave (PFL) benefits
- Provides eligible employees working in San Francisco with additional compensation from their employer while they are taking PFL.



# Covered Employers

Applies to employers worldwide that have employee(s) who work(s) in San Francisco

- Employ Threshold Number of Employees:  
Global count of twenty (20) or more employees
- An Employer with fluctuating workforce – number of employees goes up and down over time – should average employees over PPLO Lookback period
- Covered employers must display poster (available on our website) and provide the PPLO form to any employee who is expecting to become a parent (Rule 4)

**Note: Government entities are not covered employers**



# Covered Employees

1. Works in San Francisco
2. Commenced work for a covered employer at least 180 days before leave period
3. Work at least 8 hours per week in San Francisco for a covered employer
4. Work in San Francisco at least 40% of weekly hours for a covered employer
5. Apply for and receive California Paid Family Leave (PFL) benefits from the Employment Development Department (EDD)
6. The employee does not have to be covered by other state or federal leave laws to receive the benefit



# Key Term: PPLO LookBack Period

- The 12 weekly, 6 semi-monthly or bi-weekly, or 3 monthly pay periods before the first day of an employee's leave
- Is used to determine if an employer is covered when the number of employees fluctuate
- Is used to determine if an employee is covered when hours fluctuate
- Is used to calculate the average normal weekly wage when wages fluctuate.
- When in doubt, call OLSE with questions about whether employer and employee are covered by the PPLO



# Steps for Employers

1. Post the Notice
2. Provide the PPLO form to any employee who indicates that they will be or have become a parent (Other employer obligations under federal & state law)
3. Determine employee eligibility
4. Calculate and pay employee



## EMPLOYER'S Guide to the San Francisco Paid Parental Leave Ordinance

### Step 1

#### Give Notice to Employees

Post OLSE's annual notice.

Include information about supplemental pay under the SF Paid Parental Leave Ordinance (SF PPLO) in employee handbook.

### Step 2

#### Give Employee SF Paid Parental Leave Form (SF PPL Form)

The form is available at [www.sfgov.org/pplo](http://www.sfgov.org/pplo).

Give your employee a copy as soon as they ask about parental leave or notify you that they are expecting a newborn, adopted, or foster child. If the company has vacation or PTO policies, review those with the employee now.

### Step 3

#### Determine Employee's Eligibility

The employee is eligible if they: (1) started work for you at least 180 days before the leave; (2) work for at least 8 hours and 40% of their total week hours in San Francisco; (3) have applied for and are eligible for EDD Paid Family Leave.

### Step 4

#### Calculate & Pay Supplemental Compensation

You will need the employee's Normal Weekly Wages and EDD Weekly Benefit amount. This information will be on the completed SF PPL Form and EDD Notice of Computation, which the employee receives from the EDD.

Calculation instructions are available on the OLSE website.

**Remember to Maintain Records and that Retaliation is Prohibited Under the Ordinance**

Please contact the Office of Labor Standards Enforcement at [plso@sfgov.org](mailto:plso@sfgov.org) or at (415) 554-4190 with any further questions or online at [www.sfgov.org/pplo](http://www.sfgov.org/pplo).



# Steps for Employees



## Step 1

### Apply for EDD Paid Family Leave

Apply for PFL through the Employment Development Department (EDD) online at [www.californiapaidfamilyleave.com](http://www.californiapaidfamilyleave.com) or with a [paper application](#). If you do not have a driver's license or ID, use a paper application.

Check box A22, allowing EDD to disclose your benefit amount to your employer.

## Step 2

### Complete SF Paid Parental leave Form (SF PPL Form)

Your employer should give you the form. You can also find it online at [www.sfgov.org/pplo](http://www.sfgov.org/pplo).

If you have multiple employers, complete a form for each employer.

## Step 3

### Give Employer SF PPL Form and EDD Notice of Computation

The EDD will send you a Notice of Computation that includes your weekly benefit amount. If you were paid State Disability Insurance (SDI) before PFL, use the Notice of Computation the EDD sent you for your SDI claim.

## Step 4

### Notify Employer When You Receive First PFL Payment

Your employer may ask for your Notice of Payment or Electronic Benefit Payment Notification.

Please contact the Office of Labor Standards Enforcement at [pplo@sfgov.org](mailto:pplo@sfgov.org) or at (415) 554-4150 with any further questions or online at: [www.sfgov.org/pplo](http://www.sfgov.org/pplo).

1. Apply for California Paid Family Leave, on-line or in paper form
2. Complete the San Francisco Paid Parental Leave (PPL) form
3. Submit the completed SF PPL form and the Notice of Computation to Employer
4. Maintain records and receipts from EDD



# Paid Family Leave (PFL)

- Employee funded benefit
- **Eight weeks** of partial wage replacement to employees while:
  1. caring for a seriously ill family member; OR
  2. bonding with a newborn, adopted or foster child
- Benefit, depending on income, is 60% to 70% up to cap
- Both parents can take the same or different time
- Can be taken consecutively or intermittently
- Must be taken within one year of birth, adoption or placement

PFL Questions: Call 855.342.3645



# How to Provide Supplemental Compensation

1. Employee returns SF PPL form
  - a. review Section II
2. Calculation Instructions
  - a. EDD weekly rate
  - b. Employee's Normal Gross Weekly Wages

The sum of the EDD PFL benefit & employer provided supplemental compensation equals 100% of employee's gross wages to a cap (2021 cap is \$2262.00)

Example:

If an employee earns \$1,000 per week and the EDD replaces \$700 then the employer will owe \$300 per week for up to eight weeks (\$2,400).

**Payment is due at next regularly scheduled pay period**



# Paid Parental Leave Ordinance: Common Compliance Issues

- Notifying employees about their rights: *as soon as you become aware that an employee expects to become a parent via birth, adoption, or fostering*, provide them with the PPLO form and document that you provided the form.
- Common misconceptions:
  - Paid Family Leave and PPLO compensation are only for birth mothers (not true!!)
  - An employee has to take their eight weeks all at once (not true!!)
  - If an employee hasn't worked for 180 days, I don't need to notify them of their rights (not true!! The employee may become covered by PPLO at a later date, while they're eligible for PFL!!)

# Paid Parental Leave Ordinance Best Practices

- Update your Employee Handbook/Portal about PPLO
- Keep records of the PPLO form: language (English/Spanish/Chinese/other), date provided to employee, date returned by employee.
- Communicate with the employee before, during and after leave
- Maintain all EDD records and payroll records
- Use the Calculation Instructions on the PPLO website
- Pay the employee supplemental compensation at regularly scheduled pay periods
- Contact the OLSE if you have questions



# Employer Resources on PPLO Website

- Official Notice – required to be posted
- Webinar slides and audio presentations
- Downloadable Excel calculators
- Written Calculation Instructions
- FAQs
- Rules
- Employee & Employer documents in multiple languages

<https://sfgov.org/olse/paid-parental-leave-ordinance>



# PPLO Resources

415.554.4190

[pplo@sfgov.org](mailto:pplo@sfgov.org)

<https://sfgov.org/olse/paid-parental-leave-ordinance>





# Family Friendly Workplace Ordinance

Beverly Popek  
Supervising Compliance Officer



Office of Labor Standards Enforcement

# When does Family Friendly Workplace Ordinance apply?

- Applies to employers who have 20 or more employees globally
- Applies to employees who:
  - Work within the geographic boundaries of San Francisco
  - Work at least 8 hours per week
  - Employed for 6 months or more



# FFWO Overview

- The FFWO grants workers the right to request flexible or predictable work arrangements to help with family caregiving obligations without fear of retaliation.
- Employers can deny requests, but only for bona fide business reasons that they explain in writing.



# Caregiving

- Child or children for whom the employee has parental responsibility
- A person with a Serious Health Condition in a Family Relationship with the employee
- The employee's parent, age 65 or older



# Employee Rights

The employee's request may include, but is not limited to, request for changes in:

- The number of hours worked
- Times worked
- Work location
- Work assignments
- Predictability of work schedule



# Employer Response Requirements

After receiving a request, the employer is required to:

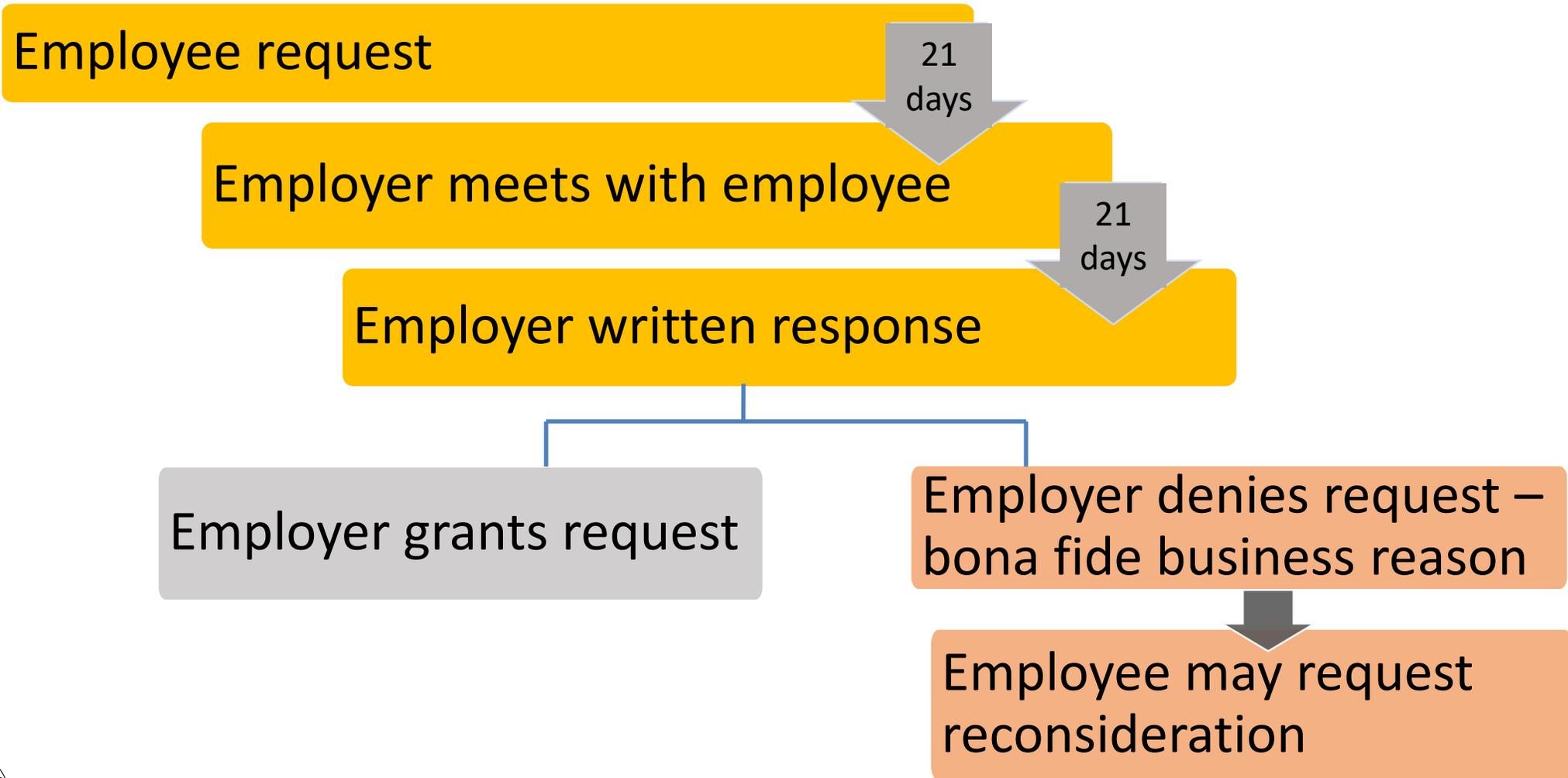
- Meet with the employee within 21 days.
- Consider the request and respond within 21 days of the meeting.

The employer may grant or deny the request.

- If the employer ***denies*** the request, the employer is required to:
- Explain the denial in writing and provide a bona fide business reason for the denial.
- Notify the employee of the right to request a reconsideration.



# FFWO: Right to a Process



# FFWO Resources

Online: [www.sfgov.org/olse/ffwo](http://www.sfgov.org/olse/ffwo)

Sample Request Forms and required notice to employees

FFWO email: [FFWO@sfgov.org](mailto:FFWO@sfgov.org)

FFWO help line: (415) 554-6424





# Lactation Accommodation in the Workplace

Beverly Popek  
Supervising Compliance Officer



Office of Labor Standards Enforcement

# Legislative History

- The purpose of the LWO “is to provide a supportive work environment to enable employees who are nursing mothers to breastfeed or express breast milk during work hours”
- Amends the San Francisco Police Code and San Francisco Building Code, establishing local standards to complement State and Federal law



# Covered Employers and Employees

- All employers – except for government entities – that have employees working in San Francisco are covered
- All employees working within the geographic boundaries of San Francisco, including part-time employees, are covered



# Employer Requirements – Lactation Breaks

Employers must provide a reasonable amount of break time for employees to express breast milk

- Break time shall, if possible, run concurrently with any break time already provided to the employee
- Break time that does not run concurrently with the rest time authorized under State law may be unpaid



# Employer Requirements – Lactation Location

- Employers must provide a location for lactation, other than a bathroom, in close proximity to the employee’s work area that:
  - Is shielded from view and free from intrusion
  - Is safe and clean
  - Contains a surface
  - Contains a place to sit
  - Has access to electricity
- Employers must provide, in close proximity to the employee’s work area, access to a refrigerator and a sink with running water
- Employers in multi-tenant buildings may use a shared location if they cannot satisfy the location requirements on their own



# Employer Requirements – Lactation Accommodation Policy

Employers must develop and implement a Lactation Accommodation policy that affirms an employee’s right to lactation accommodation and explains how employees may request it, including:

- A. Identify the process by which an employee may submit a request
- B. Require the employer to respond within 5 business days
- C. Require the employer and employee to engage in an interactive process to determine the appropriate lactation break period(s) and location



# Lactation in the Workplace Resources

[www.sfgov.org/olse/lactation-workplace](http://www.sfgov.org/olse/lactation-workplace)

- Legislative Text
- Frequently Asked Questions
- Sample Employer Policy & Request Form

(415) 554-6406

[lactation@sfgov.org](mailto:lactation@sfgov.org)





# Labor Laws that Apply Citywide and to City Contractors



Office of Labor Standards Enforcement



# Fair Chance Ordinance (FCO)

Beverly Popek  
Supervising Compliance Officer



Office of Labor Standards Enforcement

# San Francisco FCO - Who is Covered?

- **Employers Citywide**
  - 5+ employees worldwide & any employees (or planned positions) in SF
  - Any position where the employee works/will work at least 8 hours/week in SF
- **San Francisco City Contractors**
  - Any size & any employees (or planned positions) in SF
  - Any position where the employee works/will work at least 8 hours/week in SF





# Compliant Hiring Process



Office of Labor Standards Enforcement

# Job Announcements



- Announcements **cannot** say that someone with arrests or convictions will not be considered, or that a background check must be “passed.”
- Announcements **must** include an affirmative statement of compliance with the FCO:

***“Pursuant to the San Francisco Fair Chance Ordinance, we will consider for employment qualified applicants with arrest and conviction records.”***



# Job Applications

- Job applications **cannot** ask about the applicant's history of arrests or convictions.
- Employers **cannot** ask about, or inquire into, convictions or unresolved arrests until after a conditional offer of employment.



# Overview of a Compliant Hiring Process

[1 of 2]

1. Job postings must include compliant statement.
2. No “must pass background” or questions asking about background until a conditional offer of employment.
3. After a conditional of employment has been made, employer may conduct background check. No automatic rejections.



# Overview of a Compliant Hiring Process

[2 of 2]

4. If you will plan to revoke the job offer due to the background report, you must conduct an individualized assessment and provide the preliminary decision to revoke the job offer
5. Offer applicant **7 days** to provide clarification of errors in the background, mitigating circumstances, and evidence of rehabilitation
6. Conduct individualized reassessment with the background report and new information from the applicant



# Background Check Prohibited Information

**Seven categories of information may not be considered at any time:**

1. an arrest not leading to a conviction (except unresolved arrests)
2. participation in a diversion or deferral of judgment program
3. a conviction that has been dismissed or expunged
4. a conviction in the juvenile justice system
5. **a conviction that is more than 7 years old**
6. an offense other than a felony or misdemeanor (i.e. traffic ticket)
7. Any decriminalized offense (such as some cannabis convictions)



# Exceptions to Prohibited Information

**Employers can consider convictions and arrests prior to 7-year look back period for jobs supervising:**

- Minors
- Dependent adults
- Persons 65 years or older

Employers can consider infractions (driving record) where driving is a significant part of the job



# State and Federal Preemptions

- Federal or State laws that require background checks for certain jobs preempt the FCO.
  - Example: financial services/insurance employees



# What the FCO Doesn't Do:

- FCO does **NOT** require employers to give preference to, or hire an unqualified individual with an unresolved arrest or conviction record.
- FCO does **NOT** limit employers' ability to choose the most qualified and appropriate candidate among the applicants.
- FCO does **NOT** require employers to conduct a background check.
- FCO does **NOT** prohibit employers from conducting a background check.





# Common Violations



Office of Labor Standards Enforcement

# Common Violations

[1 of 2]

1. Employer asks about convictions on job applications
2. Employer refuses to hire based on a conviction that is 7+ years old
3. Employer implies that no individuals with convictions will be hired (saying a background check must be “passed”)



# Common Violations

[2 of 2]

4. Employer has an improper process of notifying applicants of conviction or unresolved arrests and length of durations
5. Failing to provide a copy of the background check
6. Failing to provide 7 days for applicant to review and respond
  - State of CA requires 5 days



# Best Practices

Go to the [FCO website](#) and review:

- Review the frequently asked questions and the ordinance
- View the recorded webinar

**The FCO is a process law. Gain an understanding of the necessary steps to comply with the FCO.**



# Contact OLSE

Office of Labor Standard Enforcement – FCO

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-5192

Fax: (415) 554-6291

Email: [fco@sfgov.org](mailto:fco@sfgov.org)

Website: [www.sfgov.org/olse](http://www.sfgov.org/olse)

FCO

<https://sfgov.org/olse/fair-chance-ordinance-fco>



Office of Labor Standards Enforcement



# Consideration of Salary History Ordinance

Beverly Popek  
Supervising Compliance Officer



Office of Labor Standards Enforcement

# Legislative History

- The Ordinance will help ensure that an individual's prior earnings, which may reflect widespread, longstanding, gender-based wage disparities in the labor market, do not continue to weigh down a woman's salary throughout her career.



# Key Provisions

- Employers may not ask applicants about their current or past salary
- Employers may not disclose a current or former employee's salary history without that employee's written authorization unless the salary history is publicly available



# Key Provisions

- An applicant may choose to share salary history information voluntarily and without prompting. If the applicant does so, the employer may consider that information in determining the salary to offer that applicant.
- Applies to all prime proposers and subconsultants.



# Best Practices

- Ensure that all steps of the hiring process does not inquiry about salary history such as the job application.
- Inform everyone involved in the hiring process about the requirements under the Consideration of Salary History Ordinance.



# Consideration of Salary History Resources

[www.sfgov.org/olse/consideration-salary-history](http://www.sfgov.org/olse/consideration-salary-history)

(415) 554-6469

[salaryhistory@sfgov.org](mailto:salaryhistory@sfgov.org)





# City Contractor Labor Laws



Office of Labor Standards Enforcement



# Prevailing Wage Requirements

**Ying Wu**

**Compliance Officer**



Office of Labor Standards Enforcement



# What is prevailing wage?

Traditional prevailing wage is the total hourly wages and benefits paid on public works projects for a particular craft, classification, or type of construction work





# What is public works?

**Public works refers to infrastructure projects paid for wholly or partly from public funds**

**Federally-funded  
(Davis Bacon)**



Federal Building  
at  
7<sup>th</sup> & Market

**State-funded  
(DIR's Wage  
Determinations)**



Bay Bridge  
Rebuild

**San Francisco-funded  
(Chapter 6)**



Bus Rapid Transit  
(BRT)

**Other Government  
Agency-funded**



Golden Gate  
Bridge Suicide  
Deterrent Net  
System



# What is public works? (continued)



- California Labor Code Sections 1720(a)(1) and 1771
  - Construction, alteration, demolition, installation, maintenance, or repair work;
  - Done under contract; and
  - Paid for in whole or in part out of public funds
  - Contract amount is over \$1,000
  
- Also Includes:
  - *Pre-construction activities* (ex: soils/materials testing, surveying, and other pre-construction activities)
  - **New!** Construction performed during the design, site assessment, feasibility study, and other pre-construction phases, regardless of whether any further construction work is conducted (1/1/20)
  - *Post-construction activities* performed under contract (ex: final clean-up of a construction project)
  - AB 219 includes the delivery of ready-mix concrete drivers (7/1/16)



# San Francisco Administrative Code Chapter 6



- **Governs public work or improvement contracting policies and procedures in the city**
- **Construction work only**
- **Chapter 6 departments include:**
  1. **Municipal Transportation Agency (MTA)**
  2. **Airport (SFO)**
  3. **Public Utilities Commission (PUC)**
  4. **Recreation and Park**
  5. **San Francisco Public Works (DPW)**
  6. **Port of San Francisco**



# What must public works contractors do to comply with the law?



- Stay registered with the DIR when working or bidding on public works projects (Labor Code Section 1771.1)
- Comply with apprenticeship requirements (Labor Code Section 1777.5)
- Maintain and furnish records - (Labor Code Section 1776) [submit CPRs to LCPtracker and the State (DIR)]
- Pay the correct prevailing wage rate to all workers for the craft, classification, and type of work they performed (Labor Code Sections 1771, 1774, and 1813)



# California Department of Industrial Relations (DIR) Registration

---



- <https://efiling.dir.ca.gov/PWCR/>
- Registration and renewal is by fiscal year: **July 1 to June 30**
- Nonrefundable fee of **\$400**
- Penalty of \$2,000 if contractor failed to register and:
  - **bid on a public works project**
  - **been awarded a public works project**



# What if a contractor fails to register?

---



- Ineligible to bid or work on public works contracts
- Can be removed from any public works project on which contractor is currently working
- Penalties
  - \$2,000 penalty + \$400 registration/renewal fee for violation in a 12-month period
  - \$400 penalty + \$400 registration/renewal fee with 90-day grace period to renew retroactively for registered contractors who fail to renew by June 30, but continue to work on public works projects
- Contract with unregistered contractor or subcontractor subject to cancellation but not void
  - Unregistered contractor or subcontractor can be replaced with one who is registered



# Apprentices

---



- Contractors working on a public works project **valued at \$30K** or more have an obligation to hire apprentices
- Must register in a state-approved apprenticeship program and make apprenticeship training contributions to CAC (LC 1777.5)  
<https://www.dir.ca.gov/das/publicworks.html>
- Apprenticeable crafts (#):
  - On the wage determination, if the title of the craft has a # before it, the craft is apprenticeable. If there is no notation or ##, then the craft is NOT apprenticeable
- Minimum Ratios:
  - In general, 1 apprentice hour for every 5 journeyperson hours (20% of total journeyperson straight time hours for each separate craft). Please confirm with California Division of Apprenticeship Standards (DAS) for details on specific crafts
  - Hours are calculated at the end of the project





# Certified Payroll Records

---

- All contractors must maintain and provide payroll records on a weekly basis for all workers employed on public works. These records must be certified under penalty of perjury. (LC 1776)
- Submit certified payroll records and fringe benefit statements into the City's electronic payroll reporting system (LCPtracker). [Chapter 6.22(e)(7)(c)]
- Failure to provide payroll records to OLSE within 10 days after receipt of written request is subject to a **\$100** penalty per worker per day. [Chapter 6.22(e)(6)] [LC 1776.(h)]



# Who must be reported in CPRs?

---



- All workers performing covered work must be reported, regardless of status or title
  - Partner, Owner, Owner-operator, Independent Contractor, Sole Proprietor, etc.
  - President, Vice-President, Superintendent, Foreman, etc.
- Report according to the type of work performed
  - Misclassification = prevailing wage violation



# What happens if prevailing wages are not paid?

---



- Assessment of back wages
- Penalties of \$50 (up to \$200) per worker per day
- Proof of payment, i.e. canceled checks, evidence of fringe benefit payments, pay stubs, etc.



# Skilled & Trained Workforce (STW)



- **SB 693** requires to use Skilled and Trained Workforce
- ALL WORKERS must be: 1. Skilled Journeypersons (**\*SJP**) OR  
2. DAS- Registered Apprentices  
*(\* 30-60% of the **SJP**, depending on craft, must graduate from an apprenticeship program. % requirement met by counting: either by # SJP headcount or # of hours worked by SJP)*
- **Who is a SJP?**
  - Graduated from DAS-approved apprenticeship program
  - Graduated from DOL- approved apprenticeship program
  - On-the-job experience = # hours required to graduate DAS-approved apprenticeship program

Exemptions Apply

**For more formation, please contact DIR or visit its website at**

<https://www.dir.ca.gov/Public-Works/Apprentices.html> **OR**

<https://www.dir.ca.gov/Public-Works/ADA-Compliant-STW-Chart-without-New-PRC-Provision.pdf>

**\*\*This is a state law, OLSE does not enforce this provision of law.\*\***



# San Francisco Administrative Code Chapter 23

---



## Mandates prevailing wage and apprenticeship requirements on:

- Private developments on City-owned or leased property
- Private housing development on property that was sold or transferred by the City

**Operative Date: April 20, 2016**



# Examples of Private Development on City Owned or Leased Property



**PIER 70:** Leased by the City for private development and renovation in exchange for a long-term lease as a tenant



# Examples of Private Housing Development on Property Sold by the City

---





# Citywide Project Labor Agreement (PLA)



# What is the Citywide PLA?



- The PLA is an agreement between the City and County of San Francisco and the San Francisco Building Trades Council and its affiliated unions
- The PLA was signed and took effect on 7/14/2020
- The PLA only applies to Covered Contracts that are issued by:
  1. Public Works
  2. Recreation and Parks

98



# What is a Covered Project?



Construction projects advertised by Public Works or Rec & Park if the following conditions are met:

1. Project is funded in whole or in part by General Obligation or Revenue bonds and the estimated construction cost *exceeds* the following threshold amounts:
  - ✓ \$5 million from 7/14/2020 – 7/13/2021
  - ✓ \$3 million from 7/14/2021 – 7/13/2022
  - ✓ \$1 million after 7/14/2022 – 7/13/2040
2. Project funded by any source other than the above mentioned bonds and the estimated construction cost to be more than \$10 million



# Local Business Enterprise (LBE) Exemption

---



## Qualifying LBEs are exempt from the terms and conditions of the PLA

- LBEs must be certified by CMD under Admin. Code Ch. 14B
- LBE exemption applies to LBEs whose cumulative payments are less than \$5 million on Citywide PLA Covered Projects
- LBEs wishing to be exempt from the PLA must sign and submit a “Statement of Exemption”
- LBEs who have been issued \$5 million in cumulative payments on Covered Projects are no longer exempt from the PLA



# Best Practice for Construction Related Prevailing Wage compliance

---



- **Attend Pre-Bid/Pre-Con Meetings**
- **Submit CPRs on a regular basis to LCPTracker**
- **Maintain and furnish payroll records and fringe contribution records**
- **Contact OLSE if you have any questions regarding Prevailing Wages**



# Common Compliance Issues



- **Pay attention to the Predetermined Changes**

- An applicable wage determination remains in effect for the life of the project. Please look up the Predetermined Changes associated to an applicable craft instead of look up the newest wage determination.

- **Training Fund**

- Training Fund has to be contributed to an approved apprenticeship program or CAC (California Apprenticeship Council), cannot pay to worker directly

- **OT for Plumbers and Sheet Metal in San Francisco**

- Certain classifications in SF county require overtime payment for over 7 hours a day



# San Francisco Administrative Code Chapter 21C



- Establishes 10 prevailing wage classifications for work that is
  - Not recognized by the California Department of Industrial Relations (DIR)
  - Not public works
  - Non-construction related
- Apply to San Francisco service **contracts, leases, management agreements, and permits.**
- **Apply to work performed at any facilities or properties owned or leased by the City.**



# 10 Categories of Work



- Motor Bus Services (21C.1) **1999**
- Janitorial Services (21C.2) **1999**
- Work at Parking Lots and Garages (21C.3) **2003**
- Theatrical Services (21C.4) **2004**
- Solid Waste Hauling (21C.5) **2006**
- Moving Services (21C.6) **2004**
- Trade Show/Special Event Work (21C.8) **2014**
- Broadcast Services (21C.9) **2016**
- Loading/Unloading (21C.10) **2016**
- Security Guard Services (21C.11) **2016**



# 21C.2 – Janitorial Services

Date prevailing wage rate was established: 1/16/2004



- Current total hourly rate including fringes (for >4,850 hours): **\$34.12 per hour**
- Health and welfare contribution is **\$9 per hour** (when employee worked for employer at least four months and minimum 105 hours in previous month)
- Working more than 7.5 hours a day will require overtime pay



# 21C.2 – Window Cleaners

Date prevailing wage rate was established: 12/13/2007



- Current total hourly rate including fringes (for journey person with 3900 hours worked in the industry): **\$39.48** per hour
- Health and welfare contribution is **\$9.27** per hour (when employee works at least 975 hours and a minimum of 75 hours in previous month)
- Working more than 7.5 hours a day will be subject to overtime



# 21C.11 – Security Guard Services

Date prevailing wage rate was established: 6/2/2017



- Current total hourly rate including fringes: **\$20.36** per hour (for Security Officer 1 with health benefit for employee only and hired after 1/1/2021)
- Amendment to extend current MCO & HCAO contracts will trigger 21C.11
- No waivers on health and welfare contribution (HCAO waiver provision does not apply to prevailing wage)
- HCSO may apply if employer has 20+ employees
- Pay attention to the footnotes



# 21C.7 – Worker Retention



**\*OLSE does not enforce this provision. Individuals can bring legal action to superior court.\***

- **Ordinance effective date:** 1/24/2012
- **Who is covered?** Previous contractor's employees
- **Requirements:**
  - Retain employee for a six-month transition employment period
  - If employee's performance during the six-month period is satisfactory, then successor contractor shall offer continued employment to employee





# Best Practice and Common Compliance Issues Under 21C

---

- Pay attention to the footnotes on wage chart
- Work performed on a named holiday is paid 1.5x overtime rate, excess of 8 hours will be paid at the 2x overtime rate
- Employee shall receive holiday pay regardless s/he is scheduled to work or not
- If employer has 20+ employees, HCSO may apply





# REMINDERS

---

- Pay workers according to the type of work performed
- Keep accurate payroll records
- Submit CPRs to LCPtracker and the State (DIR)  
(for construction related craft work only)
- Inform your subs and tiers of prevailing wage requirements





# Office of Labor Standards Enforcement

---

## Prevailing Wage Resources

**Call: (415) 554-OLSE (6573)**

**Email: [prevailingwage@sfgov.org](mailto:prevailingwage@sfgov.org)**

**Website: [www.sfgov.org/olse/prevailingwage](http://www.sfgov.org/olse/prevailingwage)**





# Minimum Compensation Ordinance (MCO)

Beverly Popek  
Supervising Compliance Officer



Office of Labor Standards Enforcement

# MCO & HCAO



These are the labor laws for **non-construction** workers who work on the San Francisco City contracts.

Can be located anywhere in the US.

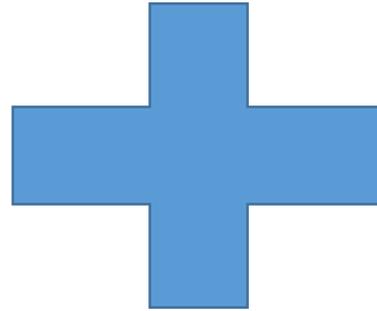
Examples:

- Clerical/administrative staff at office who support a contract
- Project and Construction Managers
- Case workers and Program Managers
- Architects, Engineers, Planners, Designers, other professional services...



# MCO

## Wages and Paid Time Off (PTO)



# Minimum Compensation Ordinance (MCO)

## **MCO: Covered Employer**

- For-profit and nonprofit – 5+ workers (permanent, temporary, etc.) anywhere in the world with a San Francisco City contract or grant
- Includes subcontractors and subtenants

## **MCO: Covered Employee/Worker**

- Anyone working for a covered employer on a City contract
- Worker/Employee is anyone – doesn't matter if full-time, part-time, contract, casual, etc.



# MCO Wage Requirements

Effective July 1, 2021:

- *\$18.55 per hour – For-profit Rate*
- *\$17.34 per hour – Non-profit Rate*

Annual increases every July 1 based on the increase in the Consumer Price Index



# MCO Paid Time Off (PTO) Requirements

- Accrual of 12 days/year for full-time employee (or 0.04615 accrual rate per hour)
- PTO is the property of the worker – must be paid out upon termination
- Caps at 96 hours and rolls over to following year
- Existing vacation & PTO policies may be compliant as long the total time off meets the accrual minimum
- PTO violations are the most common violations for the MCO



# MCO Unpaid Time Off Requirement

- Unpaid Time Off
  - 10 days for full-time employees (or accrual rate is of 0.03846/hr)
  - Caps at 80 hours and rolls over to the following year
  - An existing sick leave policy or other types of unpaid leaves such as Family Medical Leave that your firm offers may meet the unpaid time off requirement
  - If your firm offers at least 22 days of PTO per year, additional unpaid time off is not required



# MCO – Penalties for Non-compliance

- Repay wages to employees, plus interest
- Restore PTO accruals to current employees
- Cash out unused PTO to former employees
- Fine of \$100 per employee per week
- \$1,000 for failure to cooperate
- City may terminate contract or lease or withhold payment to vendor



# Contact OLSE

Office of Labor Standard Enforcement – MCO & HCAO

San Francisco City Hall

1 Dr. Carlton B. Goodlett Place, Room 430

San Francisco, CA 94102

Phone: (415) 554-7903

Fax: (415) 554-6291

Email: [mco@sfgov.org](mailto:mco@sfgov.org), [hcao@sfgov.org](mailto:hcao@sfgov.org)

Website: [www.sfgov.org/olse](http://www.sfgov.org/olse)

MCO

<http://sfgov.org/olse/minimum-compensation-ordinance-mco>

HCAO

<http://sfgov.org/olse/health-care-accountability-ordinance-hcao>

**Office of Labor Standards Enforcement**



# Health Care Accountability Ordinance (HCAO)

Beverly Popek  
Supervising Compliance Officer



Office of Labor Standards Enforcement

# Health Care Accountability Ordinance (HCAO)

## Contract Requirement

- Applies to contracts for services and leases.
- Grants are exempt from HCAO but company may need to comply with HCSO (CCSF citywide labor law)



# Health Care Accountability Ordinance (HCAO)

## **HCAO: Covered Employer**

- For-profit with more than 20 employees (anywhere), or nonprofit with more than 50 – includes subcontractors
- with a City contract
- or a lease on City property (including SFO and SF Port)

## **HCAO: Covered Employee/Worker**

- Anyone working for a covered employer on a City contract at least 20 hours a week



# HCAO Requirements – Option 1/3

*Employer must choose **one** of the following options that fit the situation/employee:*

1. Offer each covered employee a **compliant health plan** at no charge to the employee
  - No later than the first of the month after 30 days
  - A compliant health plan
    - Must meet **ALL of the HCAO Minimum Standards** for health plan
    - See HCAO Minimum Standards Document
  - The offer must be made on an annual basis



# HCAO Requirements – Option 1/3

## Best Practices

- Before signing a contract, have DPH review the health plan and give feedback.
- Save all correspondence that shows health plan met HCAO Minimum Standards.



# HCAO Requirements – Option 2/3

2. Pay \$5.85 per employee per hour to SF General Hospital (not Healthy SF)

- Rate adjusted every July 1
- Fee goes to SF General Hospital – not a benefit or \$ for worker (this is NOT Healthy San Francisco)

*This option is only for employees performing work in*

- City and County of San Francisco
- San Francisco International Airport
- San Bruno Jail



# HCAO Requirements – Option 3/3

Pay an additional \$5.60 per hour worked to the employee

- This is only for employees who work on a contract **outside of the City and County of San Francisco**. However, this is not an option for work performed at the San Francisco International Airport or the San Bruno Jail.



# HCAO Expansion at SFO

Amendment to HCAO requires specific employers at the San Francisco International Airport to provide additional health benefits to an employees' family.



# What if my worker is not an HCAO covered employee/worker?

If your employee/worker does not work 20 hours or more a week AND performs work in the City and County of San Francisco, then you may need to comply with the Health Care Security Ordinance (HCSO).

## Health Care Security Ordinance (HCSO)

<https://sfgov.org/olse/health-care-security-ordinance-hcso>

[hcso@sfgov.org](mailto:hcso@sfgov.org)

(415) 554-7892



# HCAO: Penalties for Non-compliance

- Pay HCAO Fee Owed to SF General Hospital and/or employee
- Reimburse employees out-of-pocket medical expenses (i.e. insurance premiums)
- Fine of \$100 per employee per week
- \$1,000 for failure to cooperate
- City may terminate contract or lease or withhold payment to vendor



# HCAO and MCO Resources

Phone: (415) 554-7903

Fax: (415) 554-6291

Emails: [mco@sfgov.org](mailto:mco@sfgov.org), [hcao@sfgov.org](mailto:hcao@sfgov.org)

Website: [www.sfgov.org/olse](http://www.sfgov.org/olse)

